

REMARKS

The Claim Objections

The claims objected to as dependent on a non-allowable claim have been rewritten in independent form. The rejected claims are amended. New dependent claims from the amended claims have been added. Support for the new claims can be found, for example, in the original claims. New independent claim 26 has support in the original claims and on pages 3 and 4 of the specification.

Claim Rejections Under Section 102

Claims 1, 2 and 4 were rejected under section 102 for allegedly being anticipated by Barnikol-Oettler et al.

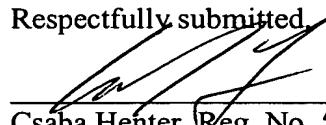
The reference disclosed a single compound that is excluded by a proviso from the claimed invention. The proviso finds support in the specification on pages 3 and 4.

“[A]lternative elements ... positively recited in the specification, ... may be explicitly excluded in the claims. See *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977) (‘[the] specification, having described the whole, necessarily described the part remaining.’).” See MPEP § 2173.05(i). Additionally the reference provides no motivation for the modification of the disclosed compound in any direction. Thus, the claimed subject matter is also not obvious over this reference.

Reconsideration is respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,


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